UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ARI D. BENCHOCRON,

Plaintiff

v.

ALDOUS AND ASSOCIATES, PLLC,

Defendant

______________________________________/

COMPLAINT
Case No.: 17cv1483
Request for Jury Trial

Plaintiff, Ari D. Benchocron ("Plaintiff"), by and through his attorney, Subhan Tariq, Esq., as and for his Complaint against the Defendant, Aldous and Associates, PLLC (hereinafter referred to as "Defendant(s)"), respectfully sets forth, complains and alleges, upon information and belief, the following:

JURISDICTION AND VENUE

1. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1692k(d), and pursuant to 28 U.S.C. § 1367 for pendent state law claims.

2. This action arises out of Defendants' repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA") and out of the invasions of Plaintiff's personal and financial privacy by these Defendants and their agents in their illegal efforts to collect a consumer debt from Plaintiff.

3. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §1331, as well as 15 U.S.C. § 1692 et seq. and 28 U.S.C. § 2201. If applicable, the Court also has pendent jurisdiction over the State law claims in this action pursuant to 28 U.S.C. § 1367(a).

4. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b)(2).

PARTIES

5. Plaintiff Ari D. Benchocron is a resident of State of New York and currently resides at 52-03 35th Street, Apt. 2B, Long Island City, NY 11101.

6. Defendant Aldous and Associates, PLLC, is a company engaged in the business of collecting debts with a principal place of business located at 4647 S 2300 E, Salt Lake City, UT 84117.

7. Plaintiff is a "consumer" as defined by the FDCPA, 15 USC § 1692a(30).

8. The Defendant is a "debt collector" as defined and used in the FDCPA under 15 USC § 1692a(6).

FACTUAL ALLEGATIONS

9. Plaintiff repeats, reiterates, and incorporates the allegations contained in paragraphs numbered "1' through "8" herein with the same force and effect as if the same were set forth at length herein.

10. Upon information and belief, Defendant, on behalf of a third-party, began efforts to collect an alleged consumer debt from the Plaintiff.

11. On May 25, 2016, the Plaintiff called the Defendant to obtain information about the account.

12. After confirming the Plaintiff's identity and finding the account, the Defendant's representative stated: "You have a past due balance with Blink Fitness for a hundred and three dollars and forty-six cents. Do you want to pay that with a Visa or MasterCard?"

13. Plaintiff stated: "…I want to dispute the balance."

14. Defendant's representative stated: "Well, I can't help you with that. We don't do verbal disputes."

15. Plaintiff stated: “Ok, that’s fine.”

16. Defendant’s representative stated: “Alright. Thank you. Have a good day.”

17. Plaintiff stated: “Well listen, one thing please. Do me a favor. Hello?”

18. Defendant’s representative stated: “Uh. Ok… what? Yes?”

19. Plaintiff stated: “That’s fine. Well, you cannot help me, well ok, don’t call me back again, ok?”

20. Defendant’s representative stated: “Ok, well we’re allowed to call you until the debt is collected. Ok. Thank you.”

21. Plaintiff stated: “Don’t call me. Bye.”

22. The call then ended.

23. The Defendant refused to grant the Plaintiff’s request to dispute his account and cease communication, despite the Plaintiff’s requests to do so.

24. These are clearly tactics to misinform, mislead, or deceive consumers about the nature and status of their account so as to assist the Defendant in its goal of collecting on debt from these consumers.

CAUSES OF ACTION

FIRST COUNT
VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT 15 U.S.C. § 1692c(c)

25. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “24” herein with the same force and effect as if the same were set forth at length herein.

26. 15 U.S.C. § 1692c(c) prohibits a debt collector from communication after notification that the consumer refuses to pay the debt or that the consumer wants collector to cease communication.

27. Defendant is in violation of 15 U.S.C. §1692c(c) by refusing to grant the Plaintiff's request to stop calling him despite the Plaintiff's request to do so and informing the Plaintiff that it could not cease communication until the debt was paid.

28. As a result of Defendant's violations of the FDCPA, the Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

SECOND COUNT
VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT 15 U.S.C. § 1692e – preface

29. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "28" herein with the same force and effect as if the same were set forth at length herein.

30. 15 U.S.C. § 1692e – preface prohibits a debt collector from using false, deceptive, or misleading representation or means in connection with a debt collection.

31. Defendant is in violation of 15 U.S.C. §1692e – preface by refusing to grant the Plaintiff's request to dispute his account despite the Plaintiff's request to do so, informing the Plaintiff that it could not take a verbal dispute, refusing to grant the Plaintiff's request to stop calling him despite the Plaintiff's request to do so, and informing the Plaintiff that it could not cease communication until the debt was paid.

32. As a result of Defendant's violations of the FDCPA, the Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

THIRD COUNT
VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT 15 U.S.C. § 1692e(8)

33. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "32" herein with the same force and effect as if the same were set forth at length herein.

34. 15 U.S.C. § 1692e(8) prohibits a debt collector from communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed.

35. Defendant is in violation of 15 U.S.C. §1692e(8) by refusing to grant the Plaintiff's request to dispute his account despite the Plaintiff's request to do so, informing the Plaintiff that it could not take a verbal dispute, and informing the Plaintiff that it could not cease communication until the debt was paid.

36. As a result of Defendant's violations of the FDCPA, the Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

FOURTH COUNT
VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT 15 U.S.C. § 1692e(10)

37. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "36" herein with the same force and effect as if the same were set forth at length herein.

38. 15 U.S.C. §1692e(10) prohibits a debt collector from making any false representation or deceptive means to collect a debt or obtain information about a consumer.

39. The Defendant is in violation of 15 U.S.C. §1692e(10) by refusing to grant the Plaintiff's request to dispute his account despite the Plaintiff's request to do so, informing the Plaintiff

that it could not take a verbal dispute, refusing to grant the Plaintiff's request to stop calling him despite the Plaintiff's request to do so, and informing the Plaintiff that it could not cease communication until the debt was paid.

40. As a result of Defendant's violations of the FDCPA, the Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

FIFTH COUNT
VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT 15 U.S.C. § 1692f – preface

41. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "40" herein with the same force and effect as if the same were set forth at length herein.

42. 15 U.S.C. § 1692f – preface prohibits a debt collector from using any unfair or unconscionable actions in connection with the collection of a debt.

43. The Defendant violated 15 U.S.C. § 1692f – preface by refusing to grant the Plaintiff's request to dispute his account despite the Plaintiff's request to do so, informing the Plaintiff that it could not take a verbal dispute, refusing to grant the Plaintiff's request to stop calling him despite the Plaintiff's request to do so, and informing the Plaintiff that it could not cease communication until the debt was paid.

44. As a result of Defendant's violations of the FDCPA, the Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

DEMAND FOR TRIAL BY JURY

45. Plaintiff hereby respectfully requests a trial by jury for all claims and issues in its Complaint to which it is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment from the Defendants as follows:

A. For actual damages provided and pursuant to 15 U.S.C. § 1692(k)(a)(1);

B. For statutory damages provided and pursuant to 15 U.S.C. § 1692k(a)(2)(A)

C. For statutory damages provided and pursuant to 15 U.S.C. § 1692k(a)(2)(B)

D. For attorneys' fees and costs provided and pursuant to 15 U.S.C. 1692k(a)(3);

E. A declaration that the Defendant's practices violated the FDCPA;

F. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: March 16, 2017

Respectfully submitted,

__s/Subhan Tariq________

Subhan Tariq, Esq.
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To: Aldous and Associates, PLLC
4647 S 2300 E
Salt Lake City, UT 84117
(*via Prescribed Service*)

Clerk of the Court,
United States District Court
Eastern District of New York
255 Cadman Plaza E.
Brooklyn, NY 11201

(*For Filing Purposes*)